

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WE-22052-PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/014348	International filing date (<i>day/month/year</i>) 16.12.2004	Priority date (<i>day/month/year</i>) 16.12.2003
International Patent Classification (IPC) or national classification and IPC B65G59/06		
Applicant BORGWALDT KC GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>7</u> sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages _____ as originally filed/furnished
- pages* 1-6 received by this Authority on 20.05.2005 with letter of 17.05.2005
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-4 received by this Authority on 20.05.2005 with letter of 17.05.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/2, 2/2 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☒ the claims, nos. 5-7
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-4</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-4</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1-4</u>	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
<p>1. This report makes reference to the following document:</p> <p>D1: EP-A-0343505</p>			
<p>2. Prior art</p> <p>Document D1 discloses (the references in parentheses are to that document):</p> <p>a device for separating objects from a number (article magazine for storing articles in a vending machine; see also column 1, lines 1-19) of objects (articles (20)) located in a container (article shafts (10)), the device having a pivoting flap at the outlet of the container (flap (14) for releasing an object to be separated), and a retaining element (flap (16)) provided above the flap, in the direction of movement of the objects, for retaining the remaining objects in the container (see figures 2-4), the retaining element being an elastic compression element (see column 6, lines 31-43).</p>			

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
3.	<p data-bbox="412 401 553 426">Problem</p> <p data-bbox="412 453 1373 678">The invention addresses the problem of providing a device for separating objects which makes it possible to separate in a gentle manner even objects of different sizes, with low constructional and technical outlay.</p> <p data-bbox="298 747 570 772">4. Solution</p> <p data-bbox="412 800 1336 1024">According to the invention, the flap and the retaining element form parts of a pivotable element. This makes it possible to release an object and at the same time retain the overlying objects with a single pivoting movement.</p> <p data-bbox="412 1094 1373 1318">Moreover, according to the invention, a cigarette is released when the pivotable element, and hence the flap, rotates. At the same time, the retaining element is rotated into the exit path, so as to retain the remaining cigarettes.</p> <p data-bbox="412 1388 1260 1470">The available prior art does not describe or suggest these features.</p> <p data-bbox="298 1539 1357 1667">5. Claims 2-4 are dependent on claim 1 and thus also meet the PCT novelty and inventive step requirements.</p> <p data-bbox="298 1736 1317 1818">6. Claims 1-4 relate to an industrially applicable subject.</p>